

Senate File 241 - Introduced

SENATE FILE 241

BY DAWSON

A BILL FOR

1 An Act relating to law enforcement officers including the
2 establishment of a law enforcement officer privilege and the
3 confidentiality of certain law enforcement officer personnel
4 records.

5 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

1 Section 1. Section 22.7, subsection 5, Code 2017, is amended
2 to read as follows:

3 5. Peace officers' investigative reports, privileged
4 records or information specified in section 80G.1, and specific
5 portions of electronic mail and telephone billing records of
6 law enforcement agencies if that information is part of an
7 ongoing investigation, except where disclosure is authorized
8 elsewhere in this Code. However, the date, time, specific
9 location, and immediate facts and circumstances surrounding a
10 crime or incident shall not be kept confidential under this
11 section, except in those unusual circumstances where disclosure
12 would plainly and seriously jeopardize an investigation or pose
13 a clear and present danger to the safety of an individual.
14 Specific portions of electronic mail and telephone billing
15 records may only be kept confidential under this subsection if
16 the length of time prescribed for commencement of prosecution
17 or the finding of an indictment or information under the
18 statute of limitations applicable to the crime that is under
19 investigation has not expired.

20 Sec. 2. Section 22.7, subsection 11, paragraph a,
21 unnumbered paragraph 1, Code 2017, is amended to read as
22 follows:

23 Personal information in confidential personnel records
24 of government bodies relating to identified or identifiable
25 individuals who are officials, officers, or employees of the
26 government bodies. However, the following information relating
27 to such individuals contained in personnel records shall be
28 public records, except as otherwise provided in section 80G.3:

29 Sec. 3. NEW SECTION. 80G.1 Definitions.

30 As used in this section except as the context otherwise
31 requires:

32 1. "*Compensation*" means the same as defined in section 22.7,
33 subsection 11.

34 2. "*Law enforcement officer*" means the same as "*peace*
35 *officer*" as defined in section 801.4.

1 3. *"Undercover law enforcement officer"* means a law
2 enforcement officer who is actively involved with and assigned
3 to investigate alleged violations of state or federal law and
4 whose identity as a law enforcement officer is concealed while
5 conducting an investigation.

6 Sec. 4. NEW SECTION. 80G.2 Law enforcement officer —
7 **privilege — confidentiality.**

8 1. *a.* A law enforcement officer shall not be examined or
9 be required to give evidence in any criminal proceeding that
10 requires the disclosure of any records or information relating
11 to any of the following:

12 (1) Techniques and procedures used by law enforcement
13 officers to lawfully observe, hear, or monitor information
14 related to activity that appears to be criminal, unless such
15 techniques and procedures are disclosed in a public forum or
16 are disclosed voluntarily by the law enforcement officer or the
17 agency that employs the law enforcement officer.

18 (2) Identification documents or other documents necessary
19 to conduct a lawful undercover criminal investigation.

20 (3) Personal identifying information about the law
21 enforcement officer or immediate family member of the law
22 enforcement officer, or other information unrelated to the law
23 enforcement officer's professional duties which could be used
24 to threaten, harm, or intimidate the law enforcement officer
25 or immediate family member of the law enforcement officer,
26 or other information that could reasonably be construed to
27 constitute an unwarranted invasion of privacy of the law
28 enforcement officer or immediate family member of the law
29 enforcement officer. Personal information that is knowingly
30 and voluntarily disclosed by the law enforcement officer or
31 immediate family member of the law enforcement officer may be
32 redisseminated.

33 *b.* A law enforcement officer who is called to testify shall
34 not disclose information that is subject to nondisclosure as a
35 result of a court order, statute, contract, or a condition or

1 information relating to any of the following: techniques
2 and procedures used by law enforcement officers to lawfully
3 observe, hear, or monitor information related to criminal
4 activity, unless such techniques and procedures are disclosed
5 in a public forum or are disclosed voluntarily by the law
6 enforcement officer or the agency that employs the law
7 enforcement officer; identification documents necessary to
8 conduct a lawful undercover criminal investigation; or personal
9 identifying information about the law enforcement officer or
10 immediate family member of the law enforcement officer, or
11 other information unrelated to the law enforcement officer's
12 professional duties which could be used to threaten, harm, or
13 intimidate the law enforcement officer or immediate family
14 member of the law enforcement officer, or other information
15 that could reasonably be construed to constitute an unwarranted
16 invasion of privacy of the law enforcement officer or immediate
17 family member of the law enforcement officer. Personal
18 information that is knowingly and voluntarily disclosed by the
19 law enforcement officer or immediate family member of the law
20 enforcement officer may be redisseminated under the bill. The
21 bill also provides that a law enforcement officer who is called
22 to testify shall not disclose information that is subject to
23 nondisclosure as a result of a court order, statute, contract,
24 or a condition or requirement of a grant.

25 The bill provides that in determining whether nondisclosure
26 of confidential or privileged information about a law
27 enforcement officer may affect a defendant's right to present a
28 defense, the court shall make findings on the record regarding
29 the impact of disclosure on the personal safety of the law
30 enforcement officer or immediate family member of the law
31 enforcement officer if the evidence is disclosed, the probative
32 value of the confidential or privileged information about the
33 law enforcement officer, the impact of disclosure on public
34 safety, the potential for partial or limited disclosure of the
35 privileged information, and the defendant's constitutional

1 right to present a defense. Any privileged information that is
2 admitted for purposes of a pretrial hearing or a preliminary
3 admissibility determination shall remain confidential under the
4 bill.

5 The bill defines "undercover law enforcement officer" to
6 mean a law enforcement officer who is actively involved with
7 and assigned to investigate alleged violations of state or
8 federal law and whose identity as a law enforcement officer is
9 concealed while conducting an investigation.

10 The bill provides that the name, photograph, compensation
11 and benefit records, time records, residential address, or any
12 other personal identifying information of an undercover law
13 enforcement officer shall be confidential while the undercover
14 law enforcement officer is actively involved with or assigned
15 to investigate violations of state or federal law.